Specific Program Documentation ("License SPD")

1. CA Europe sarl ("CA") licenses to Customer the CA software program(s) listed below under the following terms and conditions. By using the CA Software, Customer confirm that Customer have read and agreed to these terms. "Customer" means the legal entity being granted the license to the CA Software under this License SPD, also referred to as "Client", "Customer" or "Licensee". "CA Software" means the program(s) licensed under this License SPD, and any fixes, patches, updates, upgrades, or other software provided to Customer as part of Maintenance. "Maintenance" means the maintenance and support services provided to Customer by the entity to from which Customer has purchased the CA Software.

2. Program Name: CA Wily Application Performance Management v9 (CA Wily APMv9)

3. Specified Operating Environment

The CA Software's specifications and specified operating environment information may be found in the Documentation accompanying the CA Software, if available (e.g., a user manual, user guide, or readme.txt or notice.txt file). "Documentation" means (a) with respect to CA Software: only standard specifications, user documentation, and technical manuals and guides provided with the CA Software (some or all of which may be in English only) and (b) with respect to Maintenance and warranty support: CA's external policies covering the scope and nature of Maintenance and warranty support available to CA customers can be found at *http://www.support.ca.com.*.

4. Licensing Model

Same as APM EXCEPT for the Wily hardware piece that should be replaced with the following:

TIM "Software Appliance" means the software appliance that is licensed to you on your Order Form for purposes of running the Transaction Impact Module (TIM) on your network feed to capture http/https transactions necessary for the Customer Experience analysis portion of the CA Software. Customer is responsible for providing hardware on which to run the TIM Software Appliance that meets CA's specifications. Customer must license a copy of the TIM Software Appliance for each physical server (regardless of the number of CPUs) on which a TIM Software Appliance will be installed and configured.

5. Licensing Terms

5.1 License grant. The license granted to Customer is a limited, non-exclusive, non-transferable Territory wide license. The "Territory" is specified in the applicable order form, in the section entitled "Territory" stated in the order form ("Territory). Customer's use of the license shall extend to use by Customer and Customer Authorized End Users. "Authorized End Users" means Customer and Customer Affiliate's employees and independent contractors (but excluding any outsourcer, facilities management providers or application service provider). Use of the CA Software by Authorized End Users shall at all times remain Customer responsibility and liability. Customer may use the CA Software for the operation of Customer Affiliate's internal data processing where an "Affiliate" shall mean any entity for which Customer holds greater than a fifty percent (50%) interest or, controls the board of such entity by force of law or contract but only for so long as Customer maintains that interest. Customer may transfer the CA Software to new hardware, site or location within the Territory and such transfer may be subject to the payment of additional fees to the local CA entity to which Customer has purchased the CA Software.

5.2 Type of License. The type of license Customer receives is designated in the order form for the CA Software and may include:

Perpetual License: A perpetual license to use the CA Software.
Subscription License: A license to use the CA Software for a specific length of time as set forth in the applicable order form. When the license expires at the end of the applicable term, Customer, all Affiliates and Authorized End Users must stop using the CA Software if Customer has not obtained a new license.

5.3 Use Prohibitions. Except as expressly authorized by this License SPD, Customer may not: (a) copy, reproduce, distribute or disclose the CA Software, provided that Customer may make a reasonable number of copies of the CA Software for bona fide "cold standby" disaster recovery, backup and archival purposes and may use such copy for reasonable testing and in the event of a bona fide disaster recovery event. Maintaining copies of the CA Software in a "hot standby" environment or further or additional use of the CA Software for disaster recovery, backup or archival purposes shall be subject to payment by Customer of the applicable fees to CA; (b) modify, unbundle, or create derivative works of the CA Software; (c) rent, sell, lease, assign, transfer or sublicense the CA Software or use the CA Software to provide hosting, service bureau, on demand or outsourcing services for the benefit of a third party; (d) remove any proprietary notices, labels, or marks on or in any copy of the CA Software or Documentation or any CA Software or materials in which the CA Software or Documentation or portions thereof are embedded; (e) use the CA Software in any manner that exceeds or is broader than the uses licensed to Customer; or (f) reverse assemble, decompile, reverse engineer or otherwise translate the CA Software, except to the extent specifically permitted by applicable law without the possibility of contractual waiver. All rights not specifically granted hereunder are expressly reserved.

5.4 Authorized Use Limitation. The specific scope or number or type of licenses that Customer has purchased for the CA Software is set forth in the relevant order form. Customer use of the CA Software must not exceed the specified authorized use limitation. Prior to installation or use by Customer of the CA Software in excess of the authorized use limitation, Customer agrees to pay the CA entity through whom Customer purchased the CA Software for such incremental excess use.

6. General Terms.

6.1 Export Rules. Customer agrees that the CA Software is subject to export controls of the United States of America and import controls of any other country in which the CA Software may be used. Customer agrees to export, re-export or import CA Software only in compliance with such laws and controls.

6.2 Applicable Law. Both Customer and CA consent to the application of the same laws and jurisdiction as are applicable to the agreement through which Customer purchased the CA Software licence to govern, interpret and enforce this License SPD without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this License SPD.

6.3 Limitation of Liability.

(a) Except for damages caused by fraudulent misrepresentation of CA and for death or personal injury caused by the negligence or willful default of CA, subject to subsections (b) and (c) below, CA's liability to Customer for direct damages, loss, refunds, or liability for any cause whatsoever, except as otherwise stated in this section 6.3, and regardless of the form of action will be limited to the total amount of fees paid by the Customer as stated on the applicable order form solely for the specific CA Software that caused the damage or gave rise to the cause of action. It is Customer's responsibility to take all necessary security and back-up precautions.

(b) CA's liability for damage to tangible personal or real property due to the negligence of CA shall be limited in aggregate to the sum equivalent to €300,000 (euros) per event or series of related events.

(c) The remedies provided in this License SPD are the exclusive remedies of the parties. In no event shall CA be liable to the Customer or any other party, whether in contract or tort, or otherwise for any incidental, indirect, punitive, exemplary, special, consequential or unforeseeable loss, damage or expense, loss of profits, loss of business, loss of opportunity, loss or corruption of data, however arising, even if advised of the possibility of such loss or damages being incurred.

(d) In the event that the above liability limitation is found to be invalid under applicable law, then CA and its supplier's liability for such claim shall be limited to the amount of the fees Customer has actually paid for the CA Software giving rise to the claim.

6.4 Warranty.

6.4.1 CA warrants to Customer that:

(a) it has the authority to grant Customer the rights and licenses mentioned herein and
(b) for the period of 30 days after delivery of the CA Software and subject to the CA Software being used in an operating environment stated in the Documentation as supported by CA, the CA Software will materially conform to the specifications in the Documentation for such CA Software.

If it is established that CA has breached the warranty in subsection (b) above, CA's only obligation and Customer's exclusive remedy shall be for CA to, at its option:

(1) use reasonable efforts to cure the defect in the CA Software or;
(2) replace the CA Software with CA Software that materially conforms to the specifications in the Documentation; or
(3) terminate the CA Software license and arrange a pro rata refund of the fees that Customer has paid. Any refund of fees paid in accordance with the warranty provisions herein will terminate the license of the affected CA Software.

6.4.2 This warranty and the remedies offered are applicable only if:

(a) the reported error or defect is reasonably reproducible by CA;
(b) Customer report the alleged breach with reasonable specificity in writing within thirty (30) days from its occurrence;
(c) Customer provide CA with reasonable assistance in the diagnosis and remedy of the applicable breach;
(d) Customer has installed and is using all updates, patches and fixes made available by CA for the CA Software;
(e) Customer has complied in all material respects with the terms and conditions of this License SPD and has materially complied with the Documentation for the CA Software; and
(f) the error or defect is due solely to an error or omission on the part of CA, its agents, affiliates or employees.

6.4.3 These warranties are Customer's exclusive warranties and replace all other warranties or conditions, express or implied, including, but not limited to, the implied warranties or conditions of satisfactory quality, title and fitness for a particular purpose. CA does not warrant that the CA Software will meet Customer's requirements or that use of the CA Software will be uninterrupted or error-free. If permitted by applicable law: (a) such warranties or conditions are limited in duration to the warranty period specified for the CA Software; and (b) the remedy for breach of any such warranties or conditions is limited to repair or replacement of any goods found not to comply with them. No warranties or conditions of any kind apply after that period. If Customer claim under this warranty section, Customer is not entitled or eligible to seek for the same warranty remedies from any other party under any another warranty provision.

6.5 Ownership and Proprietary Information. Title to, ownership of, and all rights in the intellectual property, including but not limited to patents, copyrights, trademarks, and trade secrets in the CA Software and Documentation, any derivative works thereof, and any goodwill accruing from the use of such CA Software and Documentation, belong exclusively to and shall remain with CA and/or its licensors. Customer shall not make available or disclose such intellectual property to any third parties except as expressly permitted by this License SPD, and shall take appropriate action, including by instruction or agreement with Customer employees who are permitted access to such information, to satisfy Customer obligations hereunder.

6.6 Assignment. Customer may not assign the License SPD, the use of any CA Software or Customer's rights and obligations under the License SPD without the prior written consent of CA. The License SPD shall be binding on the parties and all of their respective successors and assigns. CA may assign the License SPD by written notice to Customer.

6.7 Termination. CA Europe sarl may terminate the License SPD as well as revoke the license hereby granted in the event of a breach by Customer and/or Customer's Authorized End Users of the License SPD and/or the agreement under which Customer has purchased the CA Software and/or applicable Maintenance.

7. Third Party Information and Terms

If the CA Software contains third-party software components, and the third-party licensor requires incorporation of specific license terms and conditions for such software into this CA license, those third-party software components and their specific terms and conditions, which are incorporated by this reference, are set forth in the Third Party Terms document located at https://support.ca.com/prodinfo/tpterms.